IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE SHRI JUSTICE R.SUBHASH REDDY
WRIT PETITION No. 9095 of 1997

Dated 21st November, 2006

Between
Kanuri Ammiraju – since died
Through his legal representatives.

… Petitioners

And

The District Collector,
West Godavari District, Eluru and
others.

…
Respondents.

ORAL ORDER:

There is no representation on behalf of the petitioners.

In this writ petition, the petitioners, who claim to be the lessees of the temple land questioned the acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of Ac.10.31 gts. covered by Survey No. 102/1 of Maddur village of Kovvur Mandal, West Godavari District.

In the affidavit filed in support of the writ petition, it is stated that though it is a temple land, but the petitioners are in continuous and uninterrupted possession for the last several decades. The acquisition is questioned, mainly, on the ground that as much as the land belongs to Endowment Department, without the consent of the Commissioner, Endowment Department, the land cannot be acquired. Further, the land is sought to be acquired to provide house sites to the weaker sections and the respondents cannot invoke urgency clause under Section 17 of the Land Acquisition Act. It is stated that though notification was issued on 10.2.1996 under Section 4(1) of the Land Acquisition Act, 1894, no possession was taken till the filing of the writ petition in 1997 and the petitioners are in possession of the same.

Though, initially, interim orders were passed staying the proceedings pursuant to notification under Section 4(1) of the Land Acquisition Act, but, on filing the vacate petition along with counter affidavit the same were vacated on 17.9.1997. In the counter-

affidavit filed on behalf of the respondents, it is stated that the land admeasuring Ac.10-31 gts. in R.S.No. 102 of Madduru village belongs to Endowments Department and the land acquisition proceedings have been taken in consultation with the Commissioner of Endowments, who has given consent to part with the land for provision of house sites. It is stated that pursuant to the issuance of notification, possession was taken on 10.7.1996 and patta certificates were also issued to the beneficiaries. Further, it is stated that pursuant to notification and declaration dated 13.2.1998 and 14.2.1997 respectively, all the required formalities have been followed by affixing the notification in the conspicuous place of the village on 24.2.1996 and notifications were also published in the newspapers of Andhra Prabha and Andhra Jyothi.

Though it is stated in the counter affidavit that possession was already taken and patta certificates have been issued to the beneficiaries, the same is not controverted by filing reply and no steps have been taken to implead the beneficiaries as party-respondents to the writ petition. Further, the acquisition is questioned on the ground that there was no consent from the Endowments Department. But, from the counter affidavit, it is clear that the acquisition was only after consultation with the Commissioner of Endowments, who has given consent for it. Further, having regard to purpose of acquisition, it cannot be said that there is no urgency. A learned Single Judge of this Court has also considered this aspect elaborately in **S.Yedukondalu v. District Collector, West Godavari District**[1], and rejected the plea of the petitioners therein that acquisition for providing house sites to weaker sections is not of emergent nature to dispense with enquiry under Section 5-A of the Land Acquisition Act, 1894. In the present case, possession was already taken and pattas have already been

issued to the beneficiaries.

In that view of the matter, I do not find any ground to interfere with the acquisition proceedings at this stage, more particularly, when possession was already taken and even patta certificates were issued to the beneficiaries and the beneficiaries are in possession of the land allotted to them.

The writ petition, therefore, is dismissed. No costs.

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21.11.2006

R.SUBHASH REDDY, J.

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[1] 2006(5) ALT 818